

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION**

In re:

**Carl Lee Hayes, Jr.
Donna Walters Hayes**

Debtor(s).

Case No. 11-11148

Chapter 13

AMENDMENT TO:

**CHAPTER 13 PLAN, INCLUDING NOTICE OF MOTION(S) FOR VALUATION;
MOTION(S) TO AVOID CERTAIN LIENS; MOTION(S) FOR ASSUMPTION AND
REJECTION OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES; AND
NOTICE OF OPPORTUNITY FOR HEARING ON CONFIRMATION OF THE PLAN
INCLUDING ALL MATTERS AS SET FORTH IN THE PLAN,
FOR CASES FILED ON OR AFTER JULY 2, 2007**

Check for motion applicable to this plan amendment:

- ☒ **Motion to Value Liens Includes Valuation of Property Securing A Claim**
☒ **Motion to Value Liens includes Valuation of Property Securing A Claim in an Amount Less than the Amount of the Claim**
☐ **Motion to Avoid Liens §522(f)**
☐ **Motion to Assume Executory Contracts(s) and Unexpired Leases**
☐ **Motion to Reject Executory Contract(s) and Unexpired Leases**
☐ **No motions applicable to this plan amendment**

The Chapter 13 Plan, including certain motions and other provisions, is hereby **amended** as follows:

1. a. The base plan proposes to pay \$ 4,000.00 per month for 1 month; \$ 4,850.00 per month for 1 month; \$ 5,000.00 per month for 4 months; followed by payments of \$ 5,910.00 per month for 54 months.

(est. payout to unsecureds ____%)

OR

- b. The percentage plan proposes to pay \$ _____ per month for _____ % payout to unsecureds.
c. If applicable, the plan will also be funded by: NONE
d. The attorney for the debtor(s) has received \$0.00 of the total base attorney fee of \$3,250.00.

CLASSIFICATION AND TREATMENT OF CLAIMS

2. Secured Claims

- a. Treatment of Secured Claims:

Creditor	Collateral	Value of Coll.	Claim Amt.	Treatment	Int. Rate (numeric)
1. Wells Fargo Home Mortgage	House and barn on 1.5 acres located at 24 Highwoods Drive in Leicester, NC (Buncombe County) - Carl Lee Hayes, Jr. owns the property as a tenant in common with Carl Lee Hayes, Jr. and Donna Walters Hayes as Tenants by the Entireties.	203,000.00	182,558.41	Conduit	6.625
2. Barbara Hayes	Pursuant to agreement Barbara Hayes will have an unsecured claim of \$65,000 in this proceeding; \$35,000 of claim will be non-dischargeable and will be secured by d/t on 24 Highwoods Drive property with payments to commence following 13	0.00	65,000.00	Direct	n/a
3. BB&T	2 BR house, single-wide mobile home on 1.85 acres located at 123 Jones Road in Leicester, NC (Buncombe County). County tax value is \$140,300. Debtor has remainder interest in property. Life estate held by Carl Hayes, Sr. and wife Mary Elaine.	44,422.00	261,946.00	As valued	5.25
4. Carolina Farm Credit	2005 Titan stock trailer, \$2500; hopper spreader, \$25; misc farm equipment, \$1500; also 2 horses, \$1000 and 2 cows, \$600.	6,100.00	42,862.00	As valued	5.25
5. Carolina First	1989 Procraft Family Fisher fishing/ski boat	1,000.00	25,000.00	As valued	5.25
6. Champion Credit Union	2000 4200 John Deere tractor, \$2100; 1010 Massey Ferguson tractor (not operating), \$500.	2,600.00	16,500.00	As valued	5.25
7. HomeTrust Bank	House and barn on 1.5 acres located at 24 Highwoods Drive in Leicester, NC (Buncombe County) - Carl Lee Hayes, Jr. owns the property as a tenant in common with Carl Lee Hayes, Jr. and Donna Walters Hayes as Tenants by the Entireties.	60,441.59	223,009.00	As valued	5.25

Creditor	Collateral	Value of Coll.	Claim Amt.	Treatment	Int. Rate (numeric)
8. Mountain Credit Union	2004 4310 John Deere tractor w/loader	12,000.00	22,572.00	As valued	5.25
9. Mountain First Bank & Trust	1976 310C 63HP John Deere tractor/backhoe (major mechanical problems); and 2nd lien on 2004 4310 John Deere tractor w/loader	5,000.00	73,357.81	As valued	5.25
10. Mountain First Bank & Trust	farm equipment; 2nd lien on 1999 Hardy Bush Hog; 1999 New Holland scrape blade and 2001 Farmway fertilizer spreader	750.00	25,622.20	As valued	5.25
11. Sheffield Financial LLC	2006 Artic Cat ATV	3,000.00	6,694.83	As valued	5.25
12. WNC Community Credit Union	1999 Ford F-350 truck; 194,217 miles	6,500.00	3,726.63	910/365	5.25
13. WNC Community Credit Union	2005 Ford Escape; 71,609 miles	8,500.00	10,498.52	As valued	5.25

b. Pre-petition arrearages, if any, to be paid through the Chapter 13 Trustee:

Creditor	Collateral	Pre-pet. arrearage
-NONE-		

c. Monthly Conduit Payment

Creditor	Mo. Conduit Payment
Wells Fargo Home Mortgage	\$1,380.00

d. Insurance information for secured claims (real property or motor vehicles)

Collateral	Insurance Agent and Address	Vehicle Mileage	VIN
House and barn on 1.5 acres located at 24 Highwoods Drive; 2 BR house, single-wide mobile home on 1.85 acres located at 123 Jones Road; 2005 Titan stock trailer; Hopper spreader; 1989 Procraft Family Fisher fishing/ski boat; 2000 4200 John Deere tractor; 1010 Massey Ferguson tractor (not operating); 2004 4310 John Deere tractor w/loader; 1976 310C 63HP John Deere tractor/backhoe (major mechanical problems); 1999 Hardy Bush Hog; 1999 New Holland scrape blade; 2001 Farmway fertilizer spreader; 2006 Artic Cat ATV; 1999 Ford F-350 truck; 2005 Ford Escape; 1991 Toyota truck; 2000 Peterbilt 379 tractor	NC Farm Bureau Mutual Insurance PO Box 6955 Asheville, NC 28816	194,217 71,609 212,000	1FTWX33FXXEA11155 1FMYU931X5KE47135

Collateral Insurance Agent and Address Vehicle Mileage VIN

3. Priority Claims

a. Section 507(a)(2-10) Priority Claims

i. ☐ None

OR

ii. The names and amounts of all claims entitled to priority under 11 U.S.C. Section 507, other than DSOs:

Name	Claim Amount
1. Buncombe County Tax Department	688.84
2. Internal Revenue Service	0.00
3. NC Department of Revenue	0.00

b. Domestic Support Obligations ("DSOs")

i. ☒ None

OR

ii. The name, address and phone number including area code of the holder of any DSO as defined in 11 U.S.C. Section 101(14A), and amount of pre-petition arrearage owed, if any.

Name of Holder	Address (incl. city, state, zip code)	Telephone	Amt. of Any Pre-Pet. Arrearage
----------------	---------------------------------------	-----------	--------------------------------

4. Special Terms

a. ☐ None

b. Special Treatment of Unsecured Claims, and Explanation of Treatment

c. Brief Comment Explaining Direct Payment Treatment for Secured Claims under Paragraph 3(a)(2):

Pursuant to agreement Barbara Hayes will have an unsecured claim of \$65,000 in this proceeding; \$35,000 of claim will be non-dischargeable and will be secured by d/t on 24 Highwoods Drive property with payments to commence following 13

d. ☒ Pay no interest on mortgage arrearages **OR** ☐ Pay interest on mortgage arrearages at a rate of __%

e. Other Special Terms: A 1% distribution shall be made to the holders of unsecured claims for which proofs of claim are filed more than 90 days from the first date set for the meeting of creditors pursuant to 11 U.S.C. Section 341(a).

5. Plan Motions:

(a) Section 522 (f) Personal Property and Household Goods Lien Avoidance:

Creditor	Acct. # Last 4 Digits	Debt Amount	Description of Property
-NONE-			

(b) Section 522(f) Judicial Lien Avoidance

Creditor	Judgment Bk and Pg	Registry	Judgment Date	Judgment Lien Amount
-NONE-				
Real property to which the lien attaches:				
Value of debtor(s) interest in this real property is:				
Amount of exemption claimed in the real property:				

(c) Assumption or Rejection of Executory Contracts and Unexpired Leases

Creditor	Assume or Reject	Amt.of Arrears in Plan	# of Months To Cure
-None-			

TAKE NOTICE: Your rights may be affected. You should read this amendment to the Chapter 13 Plan carefully, including any motions contained in the amended plan, and discuss them with your attorney, if you have one, in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the Court to confirm the proposed plan of the debtor(s) as amended, including any of the motions included in the amended plan, or if you want the court to consider your views on these matters, then you or your attorney must file with the Court a written objection to confirmation and request for hearing on confirmation at the following addresses:

Cases filed in the **Charlotte, Shelby or Wilkesboro** Divisions:

Clerk, U.S. Bankruptcy Court, P.O. Box 34189, Charlotte, N.C. 28234-4189

Cases filed in the **Asheville or Bryson City** Divisions:

Clerk, U.S. Bankruptcy Court, Room #112, 100 Otis Street, Asheville, N.C. 28801

Your objection to confirmation and request for hearing must include the specific reasons for your objection, and must be filed with the Court no later than fifteen (15) days following the conclusion of the Section 341(a) meeting of creditors, or within fifteen (15) days of service of the amendment, whichever is later. If you mail your objection to confirmation to the Court for filing, you must mail it early enough so that the Court will receive it on or before the deadline stated above. You must also serve a copy of your objection to confirmation on the debtor(s), the attorney for the debtor(s), and the Chapter 13 trustee at their addresses as they are listed in the notice of the meeting of creditors. If any objections to confirmation are filed with the Court, the objecting party will provide written notice of the date, time and location of the hearing. No hearing will be held unless an objection to confirmation is filed.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the proposed plan of the debtor(s) as amended, including any motions contained in the amended plan, and may enter an order confirming the amended plan and granting the motions. **Any creditor's failure to object to confirmation of the proposed plan as amended shall constitute the creditor's acceptance of the treatment of its claim as proposed, pursuant to 11 U.S.C. Section 1325(a)(5)(A).**

I declare under penalty of perjury that the information provided in the Amendment to Chapter 13 Plan, including Notice of Motion(s) for Valuation; Motion(s) to Avoid Certain Liens; and Motion(s) for Assumption and Rejection of Executory Contracts and Unexpired Leases; as to all matters set forth herein are true and correct.

Dated: 1/19/12

/s/ Carl Lee Hayes, Jr.

Carl Lee Hayes, Jr.

Debtor's Signature

Dated: 1/19/12

/s/ Donna Walters Hayes

Donna Walters Hayes

Debtor's Signature

I hereby certify that I have reviewed this document with the debtor(s) and that the debtor(s) have received a copy of this document.

Dated: 1/20/12

/s/ Robert M. Pitts

Robert M. Pitts 5795

Attorney for Debtor(s)

CERTIFICATE OF SERVICE

This is to certify that I have this day served the foregoing Amended Chapter 13 Plan on the attached mailing matrix for this case and the following parties by depositing the same with in a properly addressed envelope to the last known address with adequate postage thereon or by electronic notice*:

*David G. Gray
Chapter 13 Trustee
81 Central Avenue
Asheville, NC 28801

This the 23rd day of January, 2012.

/s/ Robert M. Pitts
Robert M. Pitts, State Bar #5795
Attorney for the Debtor(s)
137 Biltmore Avenue
Asheville, NC 28801
Tel.: (828) 255-8085

Absolute Collections
421 Fayetteville St.
Suite 600
Raleigh, NC 27601

Asheville Imaging
P. O. Box 1259
Dept. 87298
Oaks, PA 19456

Asheville Imaging Center
P. O. Box 2929
Asheville, NC 28802

Bank of America
P. O. Box 15726
Wilmington, DE 19886-5726

Barbara Hayes
Design Development
4 Full Sweep
Hilton Head Island, SC 29928-5230

BB&T
Box 1847
Wilson, NC 27894

Buncombe County Tax Department
35 Woodfin St., Suite 204
Asheville, NC 28801-3014

Carolina Farm Credit
701 Brevard Road
P. O. Box 1760
Asheville, NC 28802

Carolina First
P. O. Box 12249
Columbia, SC 29211

CCS Check Processing Center
P. O. Box 55126
Boston, MA 02205-5126

Champion Credit Union
P.O. Box 1389
Canton, NC 28716

Frost - Arnett Co.
P.O. Box 198988
Nashville, TN 37219

HomeTrust Bank
P.O. Box 950
Asheville, NC 28802

Internal Revenue Service
P.O. Box 7346
Philadelphia, PA 19101-7346

Laboratory Corp. of Americ
P. O. Box 2240
Burlington, NC 27216-2240

Marjorie R. Mann
P. O. Box 7647
Asheville, NC 28802

Mission Hospital
P.O. Box 25215
Asheville, NC 28813

Mountain Credit Union
721 N. Main Street
Waynesville, NC 28786

Mountain First Bank & Trust
1637 South Main Street
Waynesville, NC 28786

NC Department of Revenue
Bankruptcy Unit
PO Box 1168
Raleigh, NC 27602

Radiation Therapy of Western NC
P. O. Box 60914
Charlotte, NC 28260-0914

Sheffield Financial LLC
P. O. Box 890641
Charlotte, NC 28289-0641

University of Tennessee Vet College
2407 River Dr, Room C124
Knoxville, TN 37996-4500

Wells Fargo Card Services
P. O. Box 6412
Carol Stream, IL 60197

Wells Fargo Home Mortgage
P.O. Box 11701
Newark, NJ 07101-4701

WNC Community Credit Union
65 Eagles Nest Rd.
Waynesville, NC 28786